

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BILLY JOHNSON,

Plaintiff,

v.

SAN JACINTO COLLEGE,

Defendant.

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C.A. No.: _____

DEFENDANT SAN JACINTO COLLEGE'S
NOTICE OF REMOVAL

Defendant San Jacinto College files its Notice of Removal, as follows:

I.

PROCEDURAL HISTORY

1. Plaintiff filed his Original Petition in state District Court in Harris County on May 21, 2019. (Exhibit A.) The action is currently pending under Cause No. 2019-34964; *Billy Johnson v. San Jacinto College*; In the 215th Judicial District Court, in the District Court for Harris County, Texas (the “State Court Action”). The lawsuit claims related to Plaintiff suffering an on-the-job injury while employed by Defendant and Plaintiff’s subsequent retirement. The State Court Action, as originally filed, asserted claims under the Texas Commission on Human Rights Act, Texas Labor Code § 21.001 et seq, as well as a workers’ compensation retaliation claim under Chapter 451 of the Texas Labor Code. The State Court Action as originally filed did NOT assert any federal claims.

2. Defendant waived service of citation on July 9, 2019. (Exhibit B.)

3. Defendant filed its Original Answer and General Denial on July 12, 2019. (Exhibit C.)

4. Plaintiff filed his First Amended Petition on August 3, 2020. (Exhibit I.) The Amended Petition added federal claims for the first time (see below).

5. The Notice of Removal was filed on August 21, 2020; accordingly, this Notice of Removal was filed within the 30-day statutory time period for removal contained in 28 U.S.C. § 1446(b)(3).

II.

REMOVAL JURISDICTION AND PROCEDURE

6. Defendant San Jacinto College is entitled to remove the State Court Action to this Court pursuant to 28 U.S.C. §§ 1331, 1441, 1446, because “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

7. In the Amended Petition, Plaintiff complains that Defendant San Jacinto College discriminated and retaliated against Plaintiff in violation of the Americans with Disabilities Act and the Age Discrimination in Employment Act. (Amended Petition, Sections VI., VII., and IX.)

8. Because the Amended Petition added claims based on the laws of the United States, the Court has removal jurisdiction over this case based on the presence of a federal question; therefore, Defendant is entitled to remove the State Court Action to the United States District Court for the Southern District of Texas, Houston Division pursuant to 28 U.S.C. § 1441(a).

9. The Defendant also is entitled to remove any state law claims along with the federal claims asserted in the State Court Action because, in any civil action in which the district court has original jurisdiction, it also has supplemental jurisdiction over “all other claims that are so related to claims in the action within original jurisdiction that they form part of the same case or controversy” 28 U.S.C. § 1367(a). All of Plaintiff’s claims in this matter arise from the

same core set of facts (Plaintiff's on-the-job injury and subsequent retirement) that form the basis for his discrimination and retaliation claims, and therefore form part of the same case or controversy.

III.
EXHIBITS

- Exhibit A: Plaintiff's Original Petition (May 20, 2019);
- Exhibit B: Waiver of Service of Citation (July 9, 2019);
- Exhibit C: Defendant's Original Answer (July 12, 2019);
- Exhibit D: Docket Control Order (September 9, 2019);
- Exhibit E: Motion to Withdraw and Substitution of Counsel (March 5, 2020);
- Exhibit F: Order on Motion to Withdraw and Substitution of Counsel (March 9, 2020);
- Exhibit G: Joint Motion for Continuance (May 30, 2020);
- Exhibit H: Order Granting Joint Motion for Continuance (June 2, 2020);
- Exhibit I: Plaintiff's First Amended Petition (August 1, 2020);
- Exhibit J: Defendants First Amended Answer and General Denial to Plaintiff's Amended Complaint (August 21, 2020);
- Exhibit K: Copy of Civil Docket Sheet in Cause No. 2019-34964;
- Exhibit L: List of Parties and Counsel.

IV.
CONCLUSION AND PRAYER

WHEREFORE, Defendant San Jacinto College requests that this matter be removed to federal court, and prays that it be awarded all relief, at law and in equity, to which it has shown itself entitled.

Respectfully submitted,

THOMPSON & HORTON LLP

By: /s/ Christopher B. Gilbert

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing pleading has been served on all counsel of record through the Court's electronic filing system on August 21, 2020:

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